

## **REMARKS**

### **Amendments**

#### ***Amendments to the Claims***

Applicant has amended the claims to more particularly point out what Applicant regards as the invention. Specifically, the invention as claimed identifies an ancillary merchant by a transaction privacy clearing house (TPCH) to fulfill a purchase request from a primary merchant. Furthermore, a link is established between the primary and ancillary merchant to exchange user discount information. In addition, Applicant has canceled claims 3-6, 8-9, 17-20, 22-23, 31-34 and 36-37 without prejudice. No new matter has been added as a result of these amendments.

### **Rejections**

#### ***Rejections under 35 U.S.C. § 101***

#### **Claims 1-2, 7, 10-16, 21, 24-30, 35 and 38-42**

Claims 1-2, 7, 10-16, 21, 24-30, 35 and 38-42 stand rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. For a claimed invention to be statutory, the claimed invention must be within the technological arts and produce a useful, concrete and tangible result. In claims 1-2, 7, and 10-14, Applicant claims a method that establishes a link for exchanging user discount information between servers of primary and ancillary merchants. Because these claims claim a method for establishing a link between servers of the merchants for exchanging for user discount information, these claims produce a useful, concrete and tangible result that is within the technological arts. Thus, Applicant respectfully submits claims 1-2, 7 and 10-14 are allowable over the 35 U.S.C. § 101 rejection because the claims claim an invention within the technological arts and produce useful, concrete and tangible results.

Claims 15, 16, 21, 24-30, 35 and 38-42 are system and computer readable medium claims corresponding to method claims 1-2, 7, and 10-14. Applicant respectfully submits claims 15, 16, 21, 24-30, 35 and 38-42 are allowable over the 35 U.S.C. § 101 rejection for the same reasons as claims 1-2, 7 and 10-14. Therefore, Applicant

respectfully submits that claims 1-2, 7, 10-16, 21, 24-30, 35 and 38-42 claim statutory subject matter and respectfully requests the withdrawal of the rejection of the claims.

***Rejections under 35 U.S.C. § 102(e)***

**Claims 1-2, 7, 10, 11, 13-16, 21, 24, 25, 27-30, 35 and 38-42**

Claims 1-2, 7, 10, 11, 13-16, 21, 24, 25, 27-30, 35 and 38-42 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Walker, U.S. Patent No. 6,085,169. Applicant does not admit that Walker is prior art and reserves the right to swear behind the reference at a later date. Nonetheless, Applicant respectfully submits that Applicant's invention as claimed in claims 1-2, 7, 10, 11, 13-16, 21, 24, 25, 27-30, 35 and 38-42 is not anticipated by Walker.

Walker discloses enabling customers to make bids for unused airline tickets through a central computer system. After receiving the bids, the computer system queries the secured airline databases to determine if a bid is accepted. Each airline's data in the secured airline server is kept separate from other airlines because the data is confidential.

Applicant respectfully submits that Walker does not teach or suggest each and every limitation of Applicant's invention as claimed. In independent claims 1, 15 and 29, Applicant claims establishing a link between a primary and ancillary merchant to exchange user discount information. However, Walker's central computer system queries the airlines to determine if an airline would accept a customer bid. Furthermore, because the airline data is confidential, Walker cannot be properly interpreted as disclosing establishing a link between airlines for exchanging data. Therefore, Walker does not teach or suggest the claimed element of establishing a link between a primary and ancillary merchant to exchange user discount information.

Accordingly, Applicant respectfully submits that the invention claimed in claims 1-2, 7, 10, 11, 13-16, 21, 24, 25, 27-30, 35 and 38-42 is not anticipated by Walker under 35 U.S.C. § 102(e) and respectfully requests the withdrawal of the rejection of the claims.

### ***Rejections under 35 U.S.C. § 103***

#### **Claims 12, 26 and 40**

Claims 12, 26 and 40 stand rejected under 35 U.S.C. § 103(a) as being obvious over Walker in view of Walker-1, U.S. Patent No. 6,041,308. Walker-1 is a continuation-in-part of Walker. Applicant respectfully submits that the combination does not teach each and every element of the invention as claimed in claims 12, 26 and 40.

Walker-1 discloses encouraging customers to submit bids for airline tickets by compensating customers if the customer's bid is rejected. The customer submits a bid to a central computer system and then the central computer system queries the airlines to determine if an airline would accept the bid. If rejected, the customer is compensated by a cash award, a prize or a discount for future transactions.

Applicant respectfully submits that the combination of Walker and Walker-1 does not support a *prima facie* case of obviousness because the combination does not teach or suggest each and every limitation of Applicant's invention as claimed. Claims 12, 26 and 40 depend from claims 1, 15 and 29, respectively. Because Walker does not teach each and every limitation of claims 1, 15 and 29, Walker-1 must disclose at least the missing elements from the independent claims in order to have a proper *prima facie* case for the dependent claims.

However, Walker-1 is directed towards compensating customers for rejected bids on airline tickets. Furthermore, Walker-1 is a continuation-in-part of Walker and adds no further information to Walker regarding establishing a link between servers of primary and ancillary merchants. Thus, Walker-1 does not teach or suggest establishing a link between a primary and ancillary merchant to exchange user discount information. As neither Walker, nor Walker-1, teach or suggest this element as claimed in claims 1, 15 and 29, the combination cannot be properly interpreted to disclose the claimed element. Therefore, the combination cannot render obvious Applicant's invention as claimed in claims 1, 15 and 29, and Applicant respectfully requests the withdrawal of the rejection of the claims under 35 U.S.C. § 103(a) over the combination.

#### **New Claims**

New claims 43-63 have been added to further clarify the links between the TPCP, primary merchant and ancillary merchants and type of information exchanged over those

links. Applicant respectfully submits claims 43-63 are allowable for at least the reasons set forth above for claims 1, 15 and 29.

### **SUMMARY**

Claims 1-2, 7, 10, 11, 13-16, 21, 24, 25, 27-30, 35 and 38-63 are currently pending. In view of the foregoing amendments and remarks, Applicant respectfully submits that the pending claims are in condition for allowance. Applicant respectfully requests reconsideration of the application and allowance of the pending claims.

If the Examiner determines the prompt allowance of these claims could be facilitated by a telephone conference, the Examiner is invited to contact Eric Replogle at (408) 720-8300.

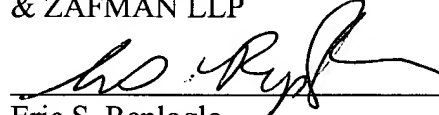
### **Deposit Account Authorization**

Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due. Furthermore, if an extension is required, then Applicant hereby requests such extension.

Respectfully submitted,

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